The word *ethics* comes from the Greek *ethikos* and *ethos*, meaning “the character of an individual.” Ethics is a branch of philosophy that deals with the general nature of moral choices, including a dentist’s relationship with patients and staff. The preamble to the American Dental Association Code of Ethics frames this concept in terms of “honesty, compassion, kindness, integrity [and] fairness.”

Dentists generally are bound by two sets of written codes or laws: the ADA Principles of Ethics and Code of Professional Conduct (applicable by adoption to all ADA and state dental association members), and state laws—most notably, dental practice acts. While statutes vary between jurisdictions, all principled practitioners accept certain universal standards.

This article examines three specific areas, conveniently beginning with the first three letters of the English alphabet.

### Altering records

The Arizona Court of Appeals, in a recent decision, said that altering records reflects “notations [that] were written to appear as though they were made contemporaneously with the original entries.”

My first brush with this unethical conduct occurred before the dental board—I had just completed what I thought was a winning argument when the patient explained that the progress notes I quoted were not found in his copy of the records. Unbeknown to my client, the patient was dating his receptionist and had obtained a copy of the records before proceeding with the board.

Upon reviewing the complaint, the dentist determined that his entries needed help and altered them before forwarding the doctored copy to the board.

Since then, I have defended perhaps a dozen cases involving altered records. I had no knowledge of any rewrites...
beforehand but a common denominator can be gleaned: The punishment for altering the records was far worse than for the underlying deficient dentistry. So never, ever alter records.

While altering is taboo, amending records is acceptable. When doing so, one must indicate both the current day and the amended day, so a reader understands that the entry is not contemporaneous.

An example:

03/04/16 amending the 03/01/16 entry:
The patient was told ....

A caveat: As a practical matter, don't bother amending records after two weeks or so. I recently defended a dentist who properly amended his record one year after treatment. Not only did the board not believe that his memory improved with age, but his belated attempt to better explain himself cast a pall of implausibility over the remaining proceedings.

Bloodborne pathogens

According to the ADA Code of Ethics, all dentists have an ethical obligation to immediately inform any patient who may have been exposed to blood or other potentially infectious material, of the need for post-exposure evaluation, and to immediately refer the patient to a qualified health care practitioner. Typical exposures include HIV and hepatitis B and C.

If this occurs, you or the potentially infected staff member must be immediately tested and sequestered until the results are known. Then, all possibly exposed patients must be notified by letter. There are private companies who specialize in this type of triage.

You cannot refuse to treat a patient with a bloodborne pathogen. The ADA Code of Ethics considers it unethical not to provide treatment to an individual based solely on their infection with HIV, hepatitis B or C, or other bloodborne pathogens.

Confidentiality

Q: Who holds the dentist-patient privilege?
A: Patients may divulge any element they want about your treatment, to whomever they wish, but you are not equally entitled to do so.

Q: Can patients waive that privilege?
A: Yes.

Q: How?
A: By filing a legal action, by publishing treatment in a public forum or on social media, or through certain statutory exceptions, such as insurance company audits.

If a patient files a board complaint or dental malpractice action, the dentist would be handcuffed unless she or he freely could discuss what took place. Filing an action waives the privilege, and you can fully defend yourself free of any restraint.

Bad reviews present a thornier situation. Yes, the patient has waived the privilege by voluntarily placing certain information in the public arena—but is it a full waiver or merely a limited one?

For example, suppose the patient had
a drug problem resulting in xerostomia, which in turn led to recurrent caries. If the social media review stated that you failed to diagnose decay, then perhaps the drug issues would be fair game.

On the other hand, if the patient’s complaint were merely financial, then discussing this illegal activity would extend beyond the subject at issue and potentially expose you to legal damages.

When confronted with bad reviews, do not respond in kind—nobody will read it. Instead, ask your better patients to flood social media with positive reviews. I know one dentist who held an emergency staff meeting and identified 50 patients to provide rave reviews. They flooded Yelp with positive comments, thereby dwarfing the single bad review in the process.

Alternatively, respond with a short retort like this:

“Julie, there are two sides to every story. Your version omitted many important facts. Will you waive HIPAA and permit me to share some relevant information? Dr. Smith”

Even though you now know that permission is unnecessary under these circumstances, I have seen this type of challenge used effectively. The typical response—crickets! The patient will not reply, which only reinforces your point.

While ethical principles can feel like something of a minefield, having a solid working knowledge of the pertinent laws and rules can help you feel more confident in coping with the daily challenges that come from running a dental practice.